

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

X

HARRY BINDER, on behalf of Sam Binder, an infant,

Plaintiff,

-against-

**ORDER**  
**CV-09-4181(SJF)(ARL)**

COLD SPRING HARBOR CENTRAL SCHOOL  
DISTRICT, HELEN BROWNE, and  
JUDITH WILANSKY, Superintendent,

Defendants.

---

X

FEUERSTEIN, J.

Pending before the Court is the Report and Recommendation ("the Report") of Magistrate Judge Arlene R. Lindsay, dated July 19, 2010, recommending that defendants' motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be granted and the complaint be dismissed in its entirety. No objections to the Report have been filed. For the reasons stated herein, the Court accepts Magistrate Judge Lindsay's Report in its entirety.

I

Rule 72 of the Federal Rules of Civil Procedure permits magistrate judges to conduct proceedings on dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S.

140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error apparent on the face of the record. See Fed. R. Civ. P. 72(b); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff'd, 305 Fed. Appx. 815 (2d Cir. Jan. 1, 2009); Baptichon v. Nevada State Bank, 304 F.Supp.2d 451, 453 (E.D.N.Y. 2004), aff'd, 125 Fed.Appx. 374 (2d Cir. 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

## II

No party has filed any objections to Magistrate Judge Lindsay's Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Lindsay's Report as an Order of the Court. For the reasons set forth therein, defendants' motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure is granted and the complaint is dismissed in its entirety. The Clerk of the Court shall enter judgment in favor of defendants and close this case.

SO ORDERED.



SANDRA L. FEDERSTEIN  
United States District Judge

Dated: August 13, 2010  
Central Islip, New York